Cou
rt No. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O.No. 88 of 2001 (Old No. 88 of 1999)

1. State of U.P. through Collector, Dehradun,
2. Collector, Dehradun, Collectorate, Dehradun

……Defendants/appellants

Versus

1.Sumant Singh S/o Balwant Singh,
R/o Nagal Bulandawala, Dehradun,
2. Inder Singh S/o Mangal Singh,
R/o 194/3 Rajpur Road, Dehradun,
3. Mukesh Mamgain S/o Rameshwar Prasad,
R/o 8 Old Survey Road, Dehradun,
4. Pradeep Agarwal S/o Jai Prakash Agarwal,
R/o 28 Curzon Roads, Dehradun.

…….Plaintiffs/respondents.

Learned Chief Standing Counsel for the appellants.
Sri S.P.Shukla, learned counsel for the respondents.

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Dated: 23rd Sept., 2004

Hon'ble P.C. Verma,J.
Hon'ble B.S. Verma, J.

This is an appeal against the order dated 03.11.1988 passed by the Additional Civil Judge (Senior Division), Dehradun on an application under Order XXXIX Rule 1 & 2 of Civil Procedure Code moved in Original Suit No. 114 of 1988. By the impugned order the trial court has, by way of interim order, provided that till the disposal of the suit for permanent injunction, the defendant shall not proceed further and shall not issue MM form- 11 and also restrained them from the excavation of sand and grits from the river in question in pursuance of MM form – 11 issued earlier.

2- It appears that the suit was filed seeking permanent injunction to restrain the defendants from excavating sand and grits for which a notice was issued for grant of contract. From the nature of the suit and the nature of dispute involved in the suit, it is clear that the suit might have been rendered infructuous by now or it might have been decided but nothing is on record to show as to whether the suit has been decided or has been rendered infructuous. The learned Chief Standing Counsel has not been able to inform as to whether the suit is still surviving. He submitted that no information has been furnished to him so far. Therefore, the appeal is dismissed. However, if the aforesaid suit is pending by now, the same shall be disposed of within a period of one month from the date of production of certified copy of this order.

(B.S. Verma, J.) **(P.C. Verma, J.)**

23.9.2004
P.Singh